

Serial No.: 10/533,248
Art Unit: 2618

REMARKS

Claims 1-14, 16-18, 20, 22, 24-31, 34, 35, 37, 39, 40, 42, 43, and 46 are currently pending. Claims 39, 40, 42, and 43 have been amended for clarification. It is respectfully submitted that no new matter has been added.

The Patent Office is thanked for its allowance of claims 1-14, 16-18, 20, 22, 24-31, 33, 35, 37, and 46.

The Patent Office rejected claims 39, 40, 42, and 43 under 35 U.S.C. 101 asserting that the claimed invention is directed to non-statutory subject matter. The independent claims 39, 40, and 43 have been amended to recite “A computer readable medium embodied with a program of machine-readable instructions,” which is understood to be an acceptable form of a claim preamble according to current U.S. patent practice. Accordingly, Applicant requests that the Patent Office withdraw its rejection of claims 39, 40, 42, and 43 under 35 U.S.C. 101.

The Patent Office rejected claims 39, 40, 42, and 43 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement and asserted the specification does not contain a written description of a program of machine-readable instructions, tangibly embodied on an information bearing medium and executable by a digital data processor, to perform actions directed toward determining a parameter useable for beamforming.

The independent claims 39, 40, and 43 have been amended to recite “A computer readable medium embodied with a program of machine-readable instructions.”

There is clear support in the original disclosure for this claimed subject matter. MPEP § 2163.07(a) provides support for subject matter that “inherently performs a function or has a property, operates according to a theory or has an advantage” where “a patent application necessarily discloses that function, theory or advantage, even though it says nothing explicit concerning it.” Support for a program of machine-readable instructions is provided throughout the original disclosure. For example, page 4, lines 7-9, of the original specification, discloses “an algorithm to extend the beamformer codebook constructions to mimic a spatial water-filling solution with a finite number of feedback bits.” As another example, figure 1 represents a prior art processing system that digitizes received RF signals and then processes the digitized signals. Clearly there is a processor and a memory storing instructions within the original disclosure of the present application as there is a processor of digital signals and there is an algorithm to be

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performed. Thus, it is respectfully submitted that there is sufficient enablement and sufficient written description to support the recitation of “A computer readable medium embodied with a program of machine-readable instructions.”

The Patent Office is respectfully requested to reconsider and remove the rejections of the claims 39, 40, 42, and 43 under 35 U.S.C. 101 and 35 U.S.C. 112, first paragraph, and to allow all of the pending claims 1-14, 16-18, 20, 22, 24-31, 33, 35, 37, 39, 40, 42, 43, and 46 as now presented for examination. An early notification of the allowability of all of the pending claims is earnestly solicited.

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Respectfully submitted:



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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. BOX 1450, Alexandria, VA 22313-1450.

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9/24/2007

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